



U.S. Department
of Transportation

**Federal Transit
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

FEB - 6 2012

Dear Colleague:

The new surface transportation authorization statute, the Moving Ahead for Progress in the 21st Century Act (MAP-21), represents a fundamental shift in the way States and the Federal Transit Administration (FTA) will work together to ensure the safety of public transportation riders across the Nation. The rail safety provisions of the new statute apply to every State that has a rail fixed guideway public transportation system already in operation, or in engineering or construction, which is not subject to regulation by the Federal Railroad Administration (FRA). In brief, MAP-21 directs that

- Each State explicitly assume and acknowledge the responsibility for overseeing the safety of rail fixed guideway public transportation;
- Each State establish a State Safety Oversight Agency (SSOA);
- Each State adopt and enforce Federal and relevant State law for safety of rail fixed guideway public transportation;
- In consultation with FTA, each State determine an appropriate staffing level for its SSOA that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the State;
- Each State require that its employees and other designated personnel of the SSOA responsible for overseeing the safety of rail fixed guideway public transportation are qualified to perform their functions based on appropriate training, including the successful completion of the training certification program administered by FTA, and
- Each State prohibit any public transportation agency from providing funds to the SSOA.

I write today to provide you notice of the actions each State must take to establish and finance its SSOA, as required by the statute. This letter follows one sent by Secretary LaHood to each of your Governors on August 28, 2012, enclosed for your reference.

First, every State must establish an SSOA that is legally and financially independent of the rail transit systems the SSOA will oversee. Every State must also strengthen its SSOA by ensuring that the State agency has adequate authority and resources to review and approve the rail transit systems' safety plans, and to oversee, through investigations and enforcement, the safety of those rail transit systems. I recognize that, in years past, a number of SSOAs have depended upon subsidization from the same rail transit agencies they are obliged to oversee. Every State with an SSOA should begin to make plans to discontinue this practice as soon as possible. In the near future, FTA will initiate a rulemaking to set new standards for State Safety Oversight programs, including standards for financial independence.

Please know that this rulemaking will be conducted strictly in accordance with our procedures for public notice and comment, and I encourage you to engage fully in this process.

Until final rules are issued, however, no State or any other agency should deprive an SSOA of the funds it needs to ensure the safety of public transportation. Moreover, while they work to strengthen their programs, those SSOAs in compliance with the State Safety Oversight regulations at 49 C.F.R. Part 659 may use their current State Safety Oversight Plans (SSOPs) as a basis for seeking an FTA determination that their SSOPs are adequate, for purposes of the October 1, 2013, deadline for the certification process established by MAP-21, now codified at 49 U.S.C. § 5329(e)(7).

Additionally, MAP-21 provides a new and stable Federal funding source to enable States to meet these requirements, including funding to hire and train the staff necessary to execute these new responsibilities. Under MAP-21, a percentage of the Section 5307 Urbanized Area formula funds will be available to eligible States for their State Safety Oversight programs. Further, the statute allows FTA to issue grants for up to 80 percent of the reasonable costs of a State Safety Oversight program. Every State will be expected to use these funds to strengthen their SSOA and to position them to comply with the requirements of MAP-21. Again, as requested in Secretary LaHood's letter, every State should now be making financial arrangements to secure the matching funds necessary for receipt of the Section 5307 formula funds.

As soon as Congress passes a Fiscal Year 2013 appropriations act for the U.S. Department of Transportation, we will allocate Federal funds to eligible States in accordance with the MAP-21 statutory formula. The FTA apportionment notice will stipulate the specific information States must provide to receive funding. When applying for funds, each State will be required to submit a preliminary plan with strategies for achieving a clear and workable transition to meeting the MAP-21 statutory requirements as listed above. FTA will review these plans and make grants that support each State's transitional and existing SSOA activities.

As you move toward the goal of developing stronger SSOAs and State Safety Oversight programs for public transportation, please know that FTA will be your partner. The riders of our Nation's rail transit systems depend on all of us, the States, the SSOAs, the rail transit operators, and FTA to do everything possible to ensure their safety.

Sincerely yours,

A handwritten signature in black ink, appearing to read "P. Rogoff", written in a cursive style.

Peter Rogoff

Enclosure: Letter to Governors



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

August 28, 2012

The Honorable John Hickenlooper
Governor of Colorado
Denver, CO 80203

Dear Governor Hickenlooper:

Earlier this month, President Obama signed the new surface transportation authorization known as Moving Ahead for Progress in the 21st Century (MAP-21). The law grants the Federal Transit Administration (FTA) significant new authority to strengthen the safety of public transportation, which is vitally important for millions of transit riders throughout the United States.

Consistent with President Obama's transit safety proposal of 2009 and MAP-21, the U.S. Department of Transportation (DOT) and the States are partners in the endeavor to carry out the law's safety provisions. The new law calls on FTA to certify State Safety Oversight (SSO) agencies and to establish requirements as to what authority and standards SSO agencies must have in place to adequately protect the traveling public.

The law also provides grant money that FTA will direct to the States to comply with these new requirements. However, while the Administration initially proposed 100 percent Federal funding for this endeavor, MAP-21 requires a 20 percent non-Federal match for these grants. The law also adopts measures initially proposed by the Administration to ensure that SSO agencies are truly independent and not funded in a fashion that presents State regulators with a conflict of interest.

With our transit safety commitment entering a new era, I ask you to review your designated SSO agency to determine if they are the appropriate and legal entity to fulfill this role going forward. I also ask you to begin now to make whatever funding arrangements must be made at the State level to be prepared to match Federal grants and adequately fund this important new requirement.

The FTA's goal is to advance transit safety through a performance-based safety management system approach that maximizes safety benefits while minimizing unnecessary bureaucracy. In 2010, I directed the Transit Rail Advisory Committee for Safety, which includes State representatives, to help guide this initiative. I look forward to our partnership in this effort.

Please do not hesitate to contact me for more information on this important new endeavor.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature of Ray LaHood is written over the typed name. The signature is in black ink and is quite fluid and expressive.